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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/600,185

06/20/2003

Annette M. Wagner

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11/14/2006

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EXAMINER

TRAN, MYLINH T

ART UNIT

PAPER NUMBER

2179

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/600,185

Applicant(s)

WAGNER, ANNETTE M.

Examiner

Mylinh Tran

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/09/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Double Patenting*

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-23 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1-23 of copending Application No. 10/600,884.

This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Salmimaa et al. [US. 6,668,177].

As to claims 1 and 18, Salmimaa et al. teach highlighting a first icon in a main portion of the mobile device display (column 3, lines 40-60); traversing the main portion to a tertiary tray, the tertiary tray including at least one scroll button and a second icon (column 5, lines 5-23); and highlighting the second icon, wherein a single navigation key is used to traverse the main portion and to highlight the second icon (column 4, line 60 through column 5, line 24).

As to claim 2, Salmimaa et al. teach the tertiary tray being adjacent to a vertical edge of the mobile device display (column 6, lines 5-40).

As to claim 3, Salmimaa et al. teach selecting the scroll button such that a third icon is displayed in the tertiary tray (column 3, line 60 through column 4, line 36).

As to claim 4, Salmimaa et al. also teach the scroll button including shifting the second icon (column 5, lines 5-23).

As to claim 5, Salmimaa et al. teach shifting the second icon including not displaying the second icon in the tertiary tray (column 6, lines 32-60).

As to claims 6 and 23, Salmimaa et al. also teach traversing the main portion to the tertiary tray including: traversing the main portion to a tertiary tab; and opening the tertiary tray by highlighting the tertiary tab (column 4, lines 15-60).

As to claim 7, Salmimaa et al. teach opening the tertiary tray including covering at least part of the main portion of the mobile device display (column 4, lines 15-60).

As to claim 8, Salmimaa et al. also teach covering at least part of the main

portion of the mobile device display including covering at least part of the first icon (column 6, lines 32-60).

As to claim 9, Salmimaa et al. teach pening the tertiary tray including rearranging at least part of the main portion of the mobile device display (column 6, lines 32-60).

As to claim 10, Salmimaa et al. teach opening the tertiary tray including scaling at least part of the main portion of the mobile device display (column 4, lines 38-60).

As to claim 11, Salmimaa et al. also teach opening the tertiary tray including shifting at least part of the main portion of the mobile device display (column 4, lines 1-50).

As to claim 12, Salmimaa et al. teach selecting the second icon (column 4, lines 1-50).

As to claim 13, Salmimaa et al. also teach selecting the second icon initiating an application corresponding to the second icon (column 3, line 60 through column 4, line 15).

As to claim 14, Salmimaa et al. teach selecting the second icon closing the tertiary tray (column 4, lines 5-36).

As to claim 15, Salmimaa et al. also teach selecting the second icon causing the second icon to be displayed in the main portion of the mobile device display (column 4, lines 5-36).

As to claim 16, Salmimaa et al. teach displaying the second icon in the main

portion of the mobile device display including removing the first icon from the main portion of the mobile device display (column 3, line 56 through column 4, line 37).

As to claim 17, Salmimaa et al. teach displaying the second icon in the main portion of the mobile device display including moving the first icon in the main portion of the mobile device display (column 6, lines 1-47).

As to claim 19, Salmimaa et al. teach a tertiary tab linking to the tertiary tray (column 4, lines 1-25).

As to claim 20, Salmimaa et al. also teach the tertiary tray being not displayed until the tertiary tab is highlighted (column 4, lines 15-40).

As to claim 21, Salmimaa et al. teach the mobile device display being included in a mobile device (figure 3).

As to claim 22, Salmimaa et al. teach highlighting a first icon in a main portion of the mobile device display (column 3, lines 40-60); traversing the main portion to a tertiary tray, the tertiary tray including at least one scroll button and a second icon (column 5, lines 5-23); and highlighting the second icon, wherein a single navigation key is used to traverse the main portion and to highlight the second icon (column 4, line 60 through column 5, line 24); traversing the tertiary tray to highlight the scroll button (column 4, lines 1-25); selecting the scroll button such that a third icon is displayed in the tertiary tray (column 5, lines 5-50); and selecting the third icon, wherein selecting the third icon initiates a corresponding application (column 6, lines 1-46).

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4141.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached at 571-272-4847.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mylinh Tran

Art Unit 2179

BA HUYNH  
PRIMARY EXAMINER